

REMARKS

Claims 54, 57-60, 66, 68-77, 79-84, and 86-90 were pending in the application. Claims 54, 66, 71, and 81 have been amended. Following entry of this Amendment and Response, claims 54, 57-60, 66, 68-77, 79-84, and 86-90 will be pending.

Support for the amendment to claims 54, 66, 71, and 81, can be found in the claims as originally filed and throughout the specification. Specifically, support for the amendment to claim 66 is available, at least, for example, at page 36, lines 26-30 of the specification as originally filed. Support for the amendment to claim 81 is available, at least, for example, at page 7, line 19-20 and Figure 1. The specification has been amended to complete the priority statement.

No new matter has been added. The foregoing claim amendments should in no way be construed as an acquiescence to any of the Examiner's rejections, and have been made solely to expedite the prosecution of the application. Applicants reserve the right to pursue the claims as originally filed in this or a separate application(s).

Information Disclosure Statement

The Examiner has indicated that an Information Disclosure Statement (IDS) was not filed in the present application on February 15, 2002, although the date-stamped postcard filed with the instant application indicates an IDS was filed. Notwithstanding, Applicants herewith submit an IDS and accompanying PTO/SB/08 Form for the Examiner's consideration.

Priority

At paragraph 5 of the pending Office Action, the Examiner objects to the specification because the priority statement is incomplete. As requested by the Examiner, Applicants have amended the specification to recite the complete chain of priority, thereby rendering this objection moot.

Obviousness-Type Double Patenting

Claims 54, 57-60, 66, 68-77, 79-84 and 86-90 are rejected under the judicially created doctrine of obviousness-type double patenting as being obvious over claims 1-16 of U.S. Patent No. 5,925,351, claims 1-14 of U.S. Patent No. 6,403,087 and claims 1-11 of U.S. Patent No. 6,669,941. Claims 54, 57-60, 66, 68-77, 79-84 and 86-90 are also provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being obvious over claims 55-62 and 64 of co-pending U.S.S.N. 10/003,211.

While in no way admitting that the above-mentioned claims are obvious over the cited claims of U.S. Patents 5,925,351, 6,403,087, and 6,669,941, Applicants respectfully submit that when the claims in the present application are indicated as allowable, Applicants will consider submitting, if appropriate, a terminal disclaimer complying with 37 C.F.R. §1.321 (c) and (d).

With respect to the provisional rejection of claims 54, 57-60, 66, 68-77, 79-84 and 86-90 as being obvious over claims 55-62 and 64 of co-pending U.S.S.N. 10/003,211, Applicants respectfully traverse this rejection in view of the amendments to claims 54, 71, and 81. The judicially created doctrine of obviousness-type double patenting “requires rejection of an application claim when the claimed subject matter is not patentably distinct from the subject matter claimed in a commonly owned patent.” (see MPEP 804). Applicants submit that claims 54, 57-60, 66, 68-77, 79-84 and 86-90, as amended, are patentably distinct over claims 55-62 and 64 of U.S.S.N. 10/003,211. Claims 55-62 and 64 of U.S.S.N. 10/003,211 describe a method for treating systemic lupus erythematosus, which is an antibody-mediated immune response. In contrast, amended claims 54, 71, and 81 are directed to a method for inhibiting LT- β -R signaling in a subject having a *Th1-cell mediated* autoimmune disorder or a *Th1-cell mediated* chronic inflammatory disorder. Thus, Applicants’ invention is directed to a subject having a Th1 cell-mediated disorder, while the methods described in claims 55-62 and 64 of U.S.S.N. 10/003,211 are specific for a disorder which is a Th2, antibody-mediated response. Accordingly, Applicants respectfully request reconsideration and withdrawal of the obviousness-type double patenting rejection of claims 54, 57-60, 66, 68-77, 79-84 and 86-90 in view of claims 55-62 and 64 of U.S.S.N. 10/003,211.

Rejection of Claim 66 Under 35 U.S.C. § 112, First Paragraph

The Examiner has rejected claim 66 under 35 U.S.C. § 112, first paragraph, as not being enabled. Specifically, the Examiner asserts that “[c]laim 66 requires that the soluble LT- β -R is administered in an amount sufficient to coat LT- β receptor positive cells, but the soluble receptor would not bind to the full-length receptor present on the cell surface.” The Examiner indicates that “[t]his rejection would be overcome by replacing ‘receptor positive cells’ with ‘ligand positive cells.’” In order to expedite prosecution, Applicants have amended claim 66 as suggested by the Examiner, thereby rendering the foregoing rejection moot.

Rejection of Claims 81-84 and 86-87 Under 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected claims 81-84 and 86-87 under 35 U.S.C. § 112, second paragraph as being indefinite based on the phrase “consisting essentially of an amino acid sequence.” Specifically, the Examiner asserts that this phrase refers to compositions and, as such, it is unclear how it pertains to a protein.

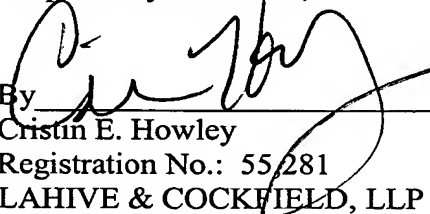
Applicants respectfully traverse the foregoing rejection. However, to expedite prosecution and allowance of the pending claims, and in no way acquiescing to the validity of the Examiner's rejection, Applicants have amended claim 81 so that it no longer includes the phrase “consisting essentially of.” As amended, claim 81 specifies that the soluble LT- β -R comprises a functional sequence of amino acids selected from the amino acids of SEQ ID NO: 1, wherein the functional sequence comprises the LT- β -R ligand binding domain. As such, Applicants respectfully submit that the foregoing rejection is moot.

CONCLUSION

In view of the above amendments and remarks set forth above, it is respectfully submitted that this application is in condition for allowance. If there are any remaining issues or the Examiner believes that a telephone conversation with Applicants' Agent could be helpful in expediting prosecution of this application, the Examiner is invited to call the undersigned at (617) 227-7400.

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Respectfully submitted,


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